

7. **AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CAPITO OF WEST VIRGINIA, OR HER DESIGNEE, TO BE
DEBATABLE FOR 10 MINUTES.**

AMENDMENT TO H.R. 10**OFFERED BY MRS. CAPITO OF WEST VIRGINIA**

[Page and line numbers refer to the Committee Print of the
Committee on Rules dated October 4, 2004]

At the end of title II add the following:

1 Subtitle J—Railroad Carriers and
2 Mass Transportation Protection
3 Act of 20004

4 SEC. 2111. SHORT TITLE.

5 This subtitle may be cited as the “Railroad Carriers
6 and Mass Transportation Protection Act of 2004”.

7 SEC. 2112. ATTACKS AGAINST RAILROAD CARRIERS AND
8 MASS TRANSPORTATION SYSTEMS.

9 (a) IN GENERAL.—Chapter 97 of title 18, United
10 States Code, is amended by striking sections 1992 through
11 1993 and inserting the following:

12 “§ 1992. Terrorist attacks and other violence against
13 railroad carriers and against mass trans-
14 portation systems on land, on water, or
15 through the air

16 “(a) GENERAL PROHIBITIONS.—Whoever, in a cir-
17 cumstance described in subsection (c), knowingly—



1 “(1) wrecks, derails, sets fire to, or disables
2 railroad on-track equipment or a mass transpor-
3 tation vehicle;

4 “(2) with intent to endanger the safety of any
5 person, or with a reckless disregard for the safety of
6 human life, and without the authorization of the
7 railroad carrier or mass transportation provider—

8 “(A) places any biological agent or toxin,
9 destructive substance, or destructive device in,
10 upon, or near railroad on-track equipment or a
11 mass transportation vehicle; or

12 “(B) releases a hazardous material or a bi-
13 ological agent or toxin on or near any property
14 described in subparagraph (A) or (B) of para-
15 graph (3);

16 “(3) sets fire to, undermines, makes unwork-
17 able, unusable, or hazardous to work on or use, or
18 places any biological agent or toxin, destructive sub-
19 stance, or destructive device in, upon, or near any—

20 “(A) tunnel, bridge, viaduct, trestle, track,
21 electromagnetic guideway, signal, station, depot,
22 warehouse, terminal, or any other way, struc-
23 ture, property, or appurtenance used in the op-
24 eration of, or in support of the operation of, a
25 railroad carrier, without the authorization of



1 the railroad carrier, and with intent to, or
2 knowing or having reason to know such activity
3 would likely, derail, disable, or wreck railroad
4 on-track equipment;

5 “(B) garage, terminal, structure, track,
6 electromagnetic guideway, supply, or facility
7 used in the operation of, or in support of the
8 operation of, a mass transportation vehicle,
9 without the authorization of the mass transpor-
10 tation provider, and with intent to, or knowing
11 or having reason to know such activity would
12 likely, derail, disable, or wreck a mass transpor-
13 tation vehicle used, operated, or employed by a
14 mass transportation provider; or

15 “(4) removes an appurtenance from, damages,
16 or otherwise impairs the operation of a railroad sig-
17 nal system or mass transportation signal or dis-
18 patching system, including a train control system,
19 centralized dispatching system, or highway-railroad
20 grade crossing warning signal, without authorization
21 from the railroad carrier or mass transportation pro-
22 vider;

23 “(5) with intent to endanger the safety of any
24 person, or with a reckless disregard for the safety of
25 human life, interferes with, disables, or incapacitates



1 any dispatcher, driver, captain, locomotive engineer,
2 railroad conductor, or other person while the person
3 is employed in dispatching, operating, or maintain-
4 ing railroad on-track equipment or a mass transpor-
5 tation vehicle;

6 “(6) commits an act, including the use of a
7 dangerous weapon, with the intent to cause death or
8 serious bodily injury to any person who is on prop-
9 erty described in subparagraph (A) or (B) of para-
10 graph (3), except that this subparagraph shall not
11 apply to rail police officers in acting the course of
12 their law enforcement duties under section 28101 of
13 title 49, United States Code;

14 “(7) conveys false information, knowing the in-
15 formation to be false, concerning an attempt or al-
16 leged attempt that was made, is being made, or is
17 to be made, to engage in a violation of this sub-
18 section; or

19 “(8) attempts, threatens, or conspires to engage
20 in any violation of any of paragraphs (1) through
21 (7);

22 shall be fined under this title or imprisoned not more than
23 20 years, or both.



1 “(b) AGGRAVATED OFFENSE.—Whoever commits an
2 offense under subsection (a) of this section in a cir-
3 cumstance in which—

4 “(1) the railroad on-track equipment or mass
5 transportation vehicle was carrying a passenger or
6 employee at the time of the offense;

7 “(2) the railroad on-track equipment or mass
8 transportation vehicle was carrying high-level radio-
9 active waste or spent nuclear fuel at the time of the
10 offense;

11 “(3) the railroad on-track equipment or mass
12 transportation vehicle was carrying a hazardous ma-
13 terial at the time of the offense that—

14 “(A) was required to be placarded under
15 subpart F of part 172 of title 49, Code of Fed-
16 eral Regulations; and

17 “(B) is identified as class number 3, 4, 5,
18 6.1, or 8 and packing group I or packing group
19 II, or class number 1, 2, or 7 under the haz-
20 ardous materials table of section 172.101 of
21 title 49, Code of Federal Regulations; or

22 “(4) the offense results in the death of any per-
23 son;

24 shall be fined under this title or imprisoned for any term
25 of years or life, or both. In the case of a violation described



1 in paragraph (2) of this subsection, the term of imprison-
2 ment shall be not less than 30 years; and, in the case of
3 a violation described in paragraph (4) of this subsection,
4 the offender shall be fined under this title and imprisoned
5 for life and be subject to the death penalty.

6 “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A
7 circumstance referred to in subsection (a) is any of the
8 following:

9 “(1) Any of the conduct required for the offense
10 is, or, in the case of an attempt, threat, or con-
11 spiracy to engage in conduct, the conduct required
12 for the completed offense would be, engaged in, on,
13 against, or affecting a mass transportation provider
14 or railroad carrier engaged in or affecting interstate
15 or foreign commerce.

16 “(2) Any person travels or communicates across
17 a State line in order to commit the offense, or trans-
18 ports materials across a State line in aid of the com-
19 mission of the offense.

20 “(d) DEFINITIONS.—In this section—

21 “(1) the term ‘biological agent’ has the meaning
22 given to that term in section 178(1);

23 “(2) the term ‘dangerous weapon’ means a
24 weapon, device, instrument, material, or substance,
25 animate or inanimate, that is used for, or is readily



1 capable of, causing death or serious bodily injury, in-
2 cluding a pocket knife with a blade of less than 2½
3 inches in length and a box cutter;

4 “(3) the term ‘destructive device’ has the mean-
5 ing given to that term in section 921(a)(4);

6 “(4) the term ‘destructive substance’ means an
7 explosive substance, flammable material, infernal
8 machine, or other chemical, mechanical, or radio-
9 active device or material, or matter of a combustible,
10 contaminative, corrosive, or explosive nature, except
11 that the term ‘radioactive device’ does not include
12 any radioactive device or material used solely for
13 medical, industrial, research, or other peaceful pur-
14 poses;

15 “(5) the term ‘hazardous material’ has the
16 meaning given to that term in chapter 51 of title 49;

17 “(6) the term ‘high-level radioactive waste’ has
18 the meaning given to that term in section 2(12) of
19 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
20 10101(12));

21 “(7) the term ‘mass transportation’ has the
22 meaning given to that term in section 5302(a)(7) of
23 title 49, except that the term includes school bus,
24 charter, and sightseeing transportation;



1 “(8) the term ‘on-track equipment’ means a
2 carriage or other contrivance that runs on rails or
3 electromagnetic guideways;

4 “(9) the term ‘railroad on-track equipment’
5 means a train, locomotive, tender, motor unit,
6 freight or passenger car, or other on-track equip-
7 ment used, operated, or employed by a railroad car-
8 rier;

9 “(10) the term ‘railroad’ has the meaning given
10 to that term in chapter 201 of title 49;

11 “(11) the term ‘railroad carrier’ has the mean-
12 ing given to that term in chapter 201 of title 49;

13 “(12) the term ‘serious bodily injury’ has the
14 meaning given to that term in section 1365;

15 “(13) the term ‘spent nuclear fuel’ has the
16 meaning given to that term in section 2(23) of the
17 Nuclear Waste Policy Act of 1982 (42 U.S.C.
18 10101(23));

19 “(14) the term ‘State’ has the meaning given to
20 that term in section 2266;

21 “(15) the term ‘toxin’ has the meaning given to
22 that term in section 178(2); and

23 “(16) the term ‘vehicle’ means any carriage or
24 other contrivance used, or capable of being used, as



1 a means of transportation on land, on water, or
2 through the air.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) The table of sections at the beginning of
5 chapter 97 of title 18, United States Code, is
6 amended—

7 (A) by striking “**RAILROADS**” in the
8 chapter heading and inserting “**RAILROAD**
9 **CARRIERS AND MASS TRANSPOR-**
10 **TATION SYSTEMS ON LAND, ON**
11 **WATER, OR THROUGH THE AIR”;**

12 (B) by striking the items relating to sec-
13 tions 1992 and 1993; and

14 (C) by inserting after the item relating to
15 section 1991 the following:

“1992. Terrorist attacks and other violence against railroad carriers and
against mass transportation systems on land, on water, or
through the air.”.

16 (2) The table of chapters at the beginning of
17 part I of title 18, United States Code, is amended
18 by striking the item relating to chapter 97 and in-
19 serting the following:

“97. Railroad carriers and mass transportation systems
on land, on water, or through the air 1991”.

20 (3) Title 18, United States Code, is amended—

21 (A) in section 2332b(g)(5)(B)(i), by strik-
22 ing “1992 (relating to wrecking trains), 1993



1 (relating to terrorist attacks and other acts of
2 violence against mass transportation systems),”
3 and inserting “1992 (relating to terrorist at-
4 tacks and other acts of violence against railroad
5 carriers and against mass transportation sys-
6 tems on land, on water, or through the air),”;
7 (B) in section 2339A, by striking “1993,”;
8 and
9 (C) in section 2516(1)(c) by striking
10 “1992 (relating to wrecking trains),” and in-
11 sserting “1992 (relating to terrorist attacks and
12 other acts of violence against railroad carriers
13 and against mass transportation systems on
14 land, on water, or through the air),”.

